

NOT FOR PUBLICATION

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FEB - 7 2006	
CLERK, US BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA BY _____ DEPUTY	

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re

PROTOCOL SERVICES, INC., et al.,

Debtors.

Bankruptcy Nos. 05-06782-
JM11 through 05-06786-JM11
(Jointly Administered)

MEMORANDUM DECISION

On December 22 and December 23, 2005, the Court held hearings regarding confirmation of the debtor' ("Debtors") plan of reorganization ("Plan"). At the conclusion of the hearing on December 23, 2005, the Court ruled that the Plan would be confirmed. The order on confirmation ("Confirmation Order") was entered that same date.

OFSI Fund II, LLC ("OFSI") has filed a motion to amend the Confirmation Order ("Motion"). OFSI contends that an indemnification provision in ¶ X of the Confirmation Order, and a related provision in the Plan (¶ 11.05), were ordered stricken by the Court. It also argues that the indemnification provisions would improperly limit its rights against third parties.

The Court has considered the Motion, as well as an objection to the Motion filed by the Senior Lenders and a reply filed by OFSI. The

1 Court also provided OFSI with time to obtain a transcript of the
2 hearings. The Court has reviewed the portions of the transcript which
3 OFSI believes are pertinent to this issue.

4 At the hearing on confirmation, the Court ordered that the Plan
5 and Confirmation Order needed to be amended so that the so-called
6 exculpation provision in ¶ 11.03 of the Plan would not be any broader
7 than what is already provided for under the current law. The Court
8 explained that the Plan and Confirmation Order could not bar third
9 party creditors from asserting claims against other creditors.

10 The indemnification provision, however, does not act as a bar
11 against third party creditors from asserting claims against other
12 creditors. It simply provides that the Debtors will indemnify various
13 parties if they are sued in connection with the formulation and
14 implementation of the Plan, as well as related activities. This
15 provision does not violate the requirements for plan confirmation
16 under Bankruptcy Code Section 1129(a), and it is not prohibited by
17 existing case law.

18 Furthermore, a review of the transcript confirms that the Court
19 did not require the plan proponent to strike the indemnification
20 provision. For these reasons, the Court will not amend the
21 Confirmation Order as requested by OFSI.

22 The Motion is DENIED.

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Date: _____

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FEB 7 2006



Hon. James W. Meyers
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West F Street, San Diego, California 92101-6991

In re Bankruptcy Case No(s). 05-06782 through 05-06786
Adversary No(s).

CERTIFICATE OF MAILING

The undersigned, a regularly appointed and qualified clerk in the office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to wit:

Order; Memorandum Decision

was enclosed in a sealed envelope bearing the lawful frank of the bankruptcy judges and mailed to each of the parties at their respective addresses listed below:

Jenner & Block LLP
Mark K. Thomas
One IBM Plaza
Chicago, IL 60611-7603

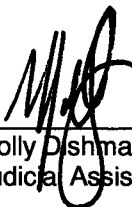
Perkins Coie, LLP
Daniel A. Zazove
131 S. Dearborn Street, #1700
Chicago, IL 60603

Buchalter Nemer
Jeffrey K. Garfinkle
18400 Von Karman Avenue, Suite 800
Irvine, CA 92612-0514

O'Melveny & Meyers Canadian
Ben Logan
Imperial Bank of Commerce
c/o Ben Logan
O'Melveny & Meyers
400 S. Hope Street
Los Angeles, Ca 90071

John L. Morrell
Higgs, Fletcher & Mack LLP
401 West "A" Street, Suite 2600
San Diego, CA 92101-7913

Said envelope(s) containing such document was deposited by me in a regular United States Mail Box in the City of San Diego, in said District on February 7, 2006.



Molly Dishman
Judicial Assistant to the Honorable James W. Meyers